

### **REMARKS**

Claims 1 to 134 are before the Examiner. Claims 1 to 26, 28 to 43, 53, 57 to 59, 75, 76, 125, 133 and 134 have been cancelled. Claims 27, 44 to 52, 54, 55, 56 and 60 to 74 and 77-134 are pending. Claims 48-52, 54-56, 60, 61, 63-74, 77-82, 123, 125, 126, and 133 have been withdrawn. Claims 48, 64 to 68, 70 to 74, 88, 105, 117 and 121 are amended to correct typographical errors or to insert claim 134.

Applicant respectfully requests that the instant application be reconsidered in light of the above amendments and the following remarks.

#### **Claim Rejections -Obviousness Type Double Patenting**

Claims 48-52, 46-56, 60, 61, 63-74, 77-82, 123, 125, 126, and 133 were rejected as unpatentable under the judicially created doctrine of obviousness type double patenting (ODP) over US 7,041,841. All other double patenting rejections have been withdrawn.

Claim 134 (*where x is 0, 1, 2, 3 or 4 when M is Ti and x is 0, 1 or 3 when M is Hf or Z*) was indicated as allowable by the Examiner. Applicant has amended all the independent claims to include this limitation. Thus Applicant respectfully requests that the ODP rejection over US 7,041,841 be withdrawn.

#### **Rejection under 35 USC § 112**

Claim 125 has been rejected under 35 USC § 112. Claim 125 has been cancelled.

#### **Allowance**

Applicant thanks the Examiner for allowance of claims 27, 44-47 and 122.

#### **Objections**

Claims 62, 124 and 134 are objected to for being dependent on a rejected base claim, but would be allowable if re-written in independent form. Applicant has amended claim 134 into all the independent claims.

Rejoinder under MPEP § 821.04.

Claims 48-52, 54-56, 60, 61, 63-74, 77-82, 123, 125, 126 and 133 are directed to a process using the compounds of the currently examined claims and have been withdrawn. Applicant requests rejoinder of the withdrawn claims under MPEP § 821.04(b).

§ 821.04(b) states in pertinent part "... withdrawn process claims which depend from or otherwise require all the limitations of an allowable product claim will be considered for rejoinder." (Emphasis added) In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim. Applicant submits that all the process claims herein meet this requirement. If the Examiner disagrees, he is encouraged to call the undersigned attorney to discuss an amendment to bring the claim into compliance.

Accordingly, Applicant respectfully requests the rejections to the claims be removed, the withdrawn claims rejoined, and the claims, as amended, be passed to allowance.

Please charge any deficiency in fees or credit any overpayments during the entire pendency of this case to Deposit Account No. 05-1712. Please also charge any petition fees, including fees for extensions of time necessary for the pendency of this case or copendency of this application with another application at any time to Deposit Account No. 05-1712.

Respectfully submitted,

December 19, 2007  
Date:

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